

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Joseph Lee Roberts, v. Norfolk Southern Railway Co., Defendant.	Plaintiff, Defendant.	Case No. 4:24-cv-1264 COMPLAINT (JURY TRIAL DEMANDED)
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INTRODUCTION

1. Norfolk Southern Railway Co. puts profit ahead of safety. This resulted in, on February 3, 2023, a train derailing, catching fire, spewing toxic chemicals into the town, endangering the entire town of East Palestine, Ohio. Instead of being concerned about the residents of East Palestine, Norfolk Southern's focus was to get trains back up and running on the track it had ripped apart. Norfolk Southern therefore ordered a number of its employees to report to East Palestine to fix the track. These employees were not even told what they would be exposed to, much less given the protective equipment necessary to keep them safe.

2. Joseph Lee Roberts is one of the employees Norfolk Southern ordered to work in East Palestine. As a result of the toxins to which he was exposed while working there, Roberts developed chemically induced asthma, which will negatively affect him the rest of his life. For his injuries, Roberts is entitled to compensation under the Federal Employers' Liability Act. This law governs workplace injuries in the railroad industry instead of workers' compensation laws.

PARTIES

3. Roberts, a resident of Indiana, worked for Norfolk Southern in this district.

4. Norfolk Southern, which provides rail-based freight transportation across the eastern

United States, including in this district, is headquartered in Atlanta, Georgia.

JURISDICTION AND VENUE

5. This Court has jurisdiction under 28 U.S.C. § 1331.
6. Venue is proper under 28 U.S.C. § 1391 because Roberts was working for Norfolk Southern in this district when he suffered his injury.

FACTUAL ALLEGATIONS

7. Norfolk Southern puts productivity ahead of safety.
8. This practice resulted in, on February 3, 2023, a train carrying vinyl chloride derailling in East Palestine, Ohio.
9. The damage caused by the derailment prevented Norfolk Southern from running trains on the track.
10. In an effort to return train operations to normal, thereby maximizing its profit, Norfolk Southern ordered some of its employees to lay panels at the site of the derailment upon which trains could continue to run.
11. Roberts was an employee Norfolk Southern ordered to assist in this operation.
12. Norfolk Southern did not tell Roberts to what it was exposing him, much less give him appropriate protective gear.
13. Neither did Norfolk Southern provide Roberts with a device that monitored the air's toxicity.
14. As a result, Roberts worked unprotected and without notice that the air had become poisonous.
15. As a result, Roberts now suffers from chemically induced asthma.
16. Had Norfolk Southern provided him with adequate protective gear and/or provided him

with adequate notice of the air's condition, Roberts would not have developed chemically induced asthma.

17. Roberts' chemically induced asthma will negatively affect him the rest of his life.

CAUSE OF ACTION

FEDERAL EMPLOYERS' LIABILITY ACT 45 U.S.C. § ET SEQ.

18. As a result, in whole or in part, of Norfolk Southern's negligence, Roberts developed serious chemically induced asthma.

19. Norfolk Southern's negligence included: (a) failing to provide Roberts with a reasonably safe workplace; (b) failing to provide proper and reasonably safe equipment and resources; (c) failing to abide by relevant portions of the Locomotive Inspection Act and Safety Appliance Act; (d) failing to comply with applicable provisions of the Code of Federal Regulations; (e) having employees perform unsafe train operations, train handling, and braking; (f) failing to provide proper maintenance and inspection, (g) failing to provide sufficient training and resources; (h) requiring Roberts to perform work activities that were unsafe; and (i) other acts of negligence to be discovered.

20. As a result of the Norfolk Southern's negligence, Roberts suffered injuries and incurred damages including past and future: loss of income, reduced earning capacity and loss of fringe benefits; physical and emotional pain and suffering; shock, fright, and fear of serious injury; loss of household services; loss or reduced capacity for the enjoyment of life; medical, pharmaceutical, and rehabilitations costs; out of pocket expenses and all other consequential damages.

PRAYER FOR RELIEF

21. Roberts requests that the Court find Norfolk Southern acted in direct violation of the FELA.

22. Roberts further requests that the Court order Norfolk Southern to take the following

actions:

- (a) pay to him an award for compensatory damages arising from loss of income (or potential loss of income) and benefits in an amount to be determined by the trier of fact;
- (b) pay to him an award for pain and suffering in an amount to be determined by the trier of fact;
- (c) pay to him an award for loss of enjoyment in life in an amount to be determined by the trier of fact;
- (d) pay to him an award for past and future medical care in an amount to be determined by the trier of fact;
- (e) pay to him an award for emotional distress in an amount to be determined by the trier of fact.

WHEREFORE, Roberts prays for judgment against Norfolk Southern for recovery of reasonable damages in an amount sufficient to fully compensate Roberts for the damages and losses suffered, together with all costs, disbursements, and whatever other relief the Court deems appropriate.

Dated: July 24, 2024

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